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# Arizona Governors' messages

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Message of ... <1864>-<1868>, <1883>, 1903

Message of the Governor of Arizona, <1871>

Biennial message ... <1873>-<1877>, <1885>, <1891>-<1893>, <1897>, 1907-<1909>

Governor's message ... <1887>, <1895?>, <1899>-1901, 1905

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Spanish version for 1885 has title: Segundo mensaje bienial de Frederick A. Tritle, Gobernador del Territorio de Arizona, rendido a la Decima tertia Asamblea Legislativa, el 12 de Enero de 1885

# MESSAGE

OF

HIS EXCELLENCY,

JOHN N. GOODWIN,

GOVERNOR OF ARIZONA TERRITORY

TO THE FIRST LEGISLATIVE ASSEMBLY OF THE TERRITORY.

SEPTEMBER, 1864.

PRESCOTT.  
OFFICE OF THE ARIZONA MINER  
1864

## MESSAGE.

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To the Legislative Assembly of Arizona Territory .

GENTLEMEN.

As the representatives of the people of Arizona, elected in accordance with the provisions of its organic law, you are this day convened in Legislative Assembly. Accept my congratulations, that with the organization of your body the territorial government is inaugurated in all its branches, and rests on the foundation of the will and power of the people. The law organizing the territory of New Mexico, which is made a part of the organic law of Arizona, provides, that "the legislative power and authority shall be vested in the legislative assembly, and the Governor, and shall extend to all rightful subjects of legislation, consistent with its provisions and the constitution of the United States; and all laws passed by them shall be binding unless disapproved by Congress."

Power so great, authority so unlimited, involves equal responsibility.

And we must be impressed with a full sense of the stern and delicate duty confided to us, when we consider the importance and grandeur of the work we are selected to perform.

We are here clothed with the power to make laws which may forever shape the destiny of this territory, to lay the foundations of a new state, and to build up a new commonwealth. The consequences of our official acts are not within our control, nor can we escape them.

Their record either to our glory or shame will soon be made, and impartial history will render a verdict, from which there is no appeal. It is in our power by wise, just, and liberal legislation, to advance this territory far onward in the race for empire, or by regarding only the selfish promptings of the present, and ignoring the logic of events, forgetting the teachings of the past, and the grand anticipations of the future, to impede its prosperity and retard its progress. We are entrusted not only with the present interests of a small constituency, and amenable to them alone, but we are the trustees of posterity, and responsible to the millions who in all time shall come after us. The saints and martyrs of liberty, who founded the Republic, have given us in trust the greatest blessing that can be bestowed upon man--civil and religious liberty—it is our duty as legislators to transmit this gift to our successors unimpaired. The constitution of the United States, which is the ark of our liberties, and the organic law giving vitality to our acts, are the guides and limits to our legislation.

Happily for our action there is abundant precedent. We have the teachings of the fathers, and can follow in the way marked out by the men of the revolution, and consecrated with their blood; it is not obscured by time but shines more luminous in the light of the ages. Wherever the principles they declared have been established freedom of political and religious thought and action have been enjoyed, and education, enterprise and civilization have advanced. A departure from those principles has entailed oppression, crime and ruin.

May the Supreme Law-giver of the universe, "whose service is perfect freedom, give us the wisdom, fitly and in the spirit of his teachings, to make the laws of this new state, forever consecrated as the home of free men.

The act establishing a temporary government for the territory of Arizona provides "That the act organizing the territory of New Mexico, and acts amendatory thereto together with all legislative enactments of the territory of New Mexico, not inconsistent with the provisions of this act, are hereby extended to, and continued in force in said territory of Arizona, until repealed or amended by future legislation." I have examined the statutes of New Mexico with some care, and am of opinion that however satisfactory such a code of laws might be to a people homogeneous and accustomed to its workings, but few of the provisions are adapted to our condition wants or necessities, and that an entire and radical change will be needed. In making such change it will of course be provided that no rights acquired under these enactments will be impaired thereby, and that all proceedings instituted under them may survive and be prosecuted to final judgment. And it is suggested that however imperfect the statutes of New Mexico may be, only such changes as are absolutely necessary be made in the ordinary course of legislation and that the general provisions be suffered to remain in force until a complete and consistent code of laws, congenial to our habits and tastes, and adapted to our wants can be prepared and adopted. Frequent changes in the statute law are the consequences of hasty and inconsiderate legislation, and produce uncertainty and litigation. It is almost impossible for the committees of the legislative assembly within the time limited for its session, to prepare, discuss and adopt a system of statute law, entire and consistent with itself, and that will not require constant amendment. It is much easier to begin right than it is to alter and amend laws and modes of proceeding once established, even though they should be glaringly imperfect. I would therefore recommend that you provide immediately for the appointment of a commissioner to prepare a code of laws to be submitted for your approval and adoption. I am confident that by such action the result will be more speedily and satisfactorily attained. I will now suggest such changes as seem to be at once demanded, and such enactments as the organic law and our peculiar condition may require. Your experience in the Territory and superior knowledge of its interests will supply any omissions that I may make, and guide you in the difficult and delicate duties devolving upon you.

An act in the statutes of New Mexico, regulating contracts between master and servant, continued and established in that territory, and consequently in this, in a modified and ameliorated form, that system of labor peculiar to Mexico, known as peonage.

It in substance provides that a person owing a debt, or who wishes to contract a debt, may bind himself to pay that debt and subsequent advances in labor at a stipulated price, and that if certain obligations be performed by the creditor or master on his part, the debtor or servant shall be held to the specific performance of his contract, and compelled to labor for the creditor until all his indebtedness is paid. These obligations are rigorously enforced. But while thus subjected to the influence and placed under the almost absolute control of the creditor, the peon is not deprived of his civil rights, nor does he lose the status of a citizen. He may acquire and hold property, may vote and be elected to office, may sit upon juries, and do all that a freeman can do. It is said that in practice the system has been but little changed by the ameliorations in the law, and that the old rigorous provisions are yet enforced upon persons ignorant of their legal rights, and that under it great abuses have arisen. But without consuming time in enumerating consequences so obvious, or arguing the inconsistency of such enactments with the organic law, I say to you that the system is founded in wrong, and will result in oppression, that it is degrading to the dignity of labor, and debases the laboring man, it is equally a disgrace and a reproach to the peon, and to the other citizens of the State whose equal by law the peon is made—it is an obstacle to education and a bar to progress. I recommend the immediate abrogation of this system, and that the creditor be left to his action

for debt, or damages for a breach of contract, and the same remedy for the collection of his debt which is provided in other cases. The New Mexican law further provides that a debtor in arrest may be detained in prison five days before he can be permitted to take the poor debtor's oath. I suggest that this relic of a barbarous law be abolished, and that the debtor, upon instituting proper proceedings, be admitted to an immediate examination, and if permitted to take the poor debtor's oath be at once discharged.

In the fierce conflicts for life waged by the people of this territory with the hostile Apaches, some young persons have been captured, and there being no provision made by government for their custody or support, have been placed in families as servants or laborers. These captives, so far as I have information, have been kindly treated, and in some instances have become partly civilized, and would not now voluntarily leave the persons with whom they are living.

But though no wrong or oppression may have resulted from this relation between the parties, it is certainly liable to abuse, and if permitted to continue should be regulated by law. It is very important that reservations should be made, if they have not been, for all Indian tribes, and captives taken to them at once, that a settlement be commenced, to which the whole tribe will eventually be taken. But where these persons have become accustomed to civilized life, and are unwilling to return to the savage state, there seems to be no good reason for compelling them to do so. I can suggest no better enactment in such cases than a system of apprenticeship similar to that existing in most of the states. It may be provided that such persons may come before the Judge of Probate of the county in which they live and assume a name, and be bound as apprentices for a term of years, in the presence and by the authority of that officer. The persons to whom they are bound should at the same time engage to feed, clothe and instruct them, and at stipulated times bring them before the Judge of Probate, when their indentures can be continued or cancelled. Similar provisions can be applied when the children of friendly Indians are placed by them in the families of citizens. Severe penalties should be imposed upon those who illegally restrain these persons of their liberty; and do not comply with the provisions of the law.

You are specifically authorized by the organic law to divide the territory into three judicial districts, to assign to each of them one of the judges who have been appointed, and to fix the times and places for holding terms of the district court. You have also the power to establish inferior courts. It will likewise be necessary to divide the territory into counties, and into legislative districts, to decide what territorial, county and town officers are required, to fix their duties, terms of office, and compensation. You are to determine the time and manner of holding elections of all elective officers, and of the future meetings of the legislature, the qualifications of voters and of holding office. I have exercised some of these powers temporarily, where authority of law and a necessity for their exercise existed. Copies of the proclamations that have been issued, and the papers relating to the preliminary census, together with the election returns, and a list of all state and county officers appointed by me, will be submitted for your information. I have appointed an Attorney General, who has performed the duties of district or county attorneys. I have also appointed a Judge of Probate, Sheriff, Register, Justices of the Peace, and Constables, for each of the three judicial districts, which I have regarded as counties, and constituted districts for such officers. In forming these districts I have endeavored to consult the convenience and wishes of the citizens, and in this as well as in the appointment of officers to secure the prompt and economical transaction of business. Such officers only as were indispensable to the execution of the laws have been appointed, and consequently a very small indebtedness has been incurred, for which payment must be provided by you. I bespeak your careful attention to the provisions for the government of counties and towns.

If their affairs are promptly and economically administered, the foundation of good government is secured.

I recommend that but few offices be created. Duties which in more populous

communities are performed by several officers may here with propriety be imposed upon one, and compensation should be paid as will secure the full time and services of competent men. If the wants of the people can be accommodated for the present by forming not more than three counties, it will to some extent relieve them from taxation that must in any event be onerous. In new territories the formation of numerous counties has laid the foundation of great and accumulating indebtedness, with no commensurate advantages. In affairs of states as well as individuals economy is the surest basis of permanent prosperity.

The revenue required to meet the expenses of the government which are not covered by the Congressional appropriation must be raised by taxation. An estimate of the amount required for territorial purposes can be proximately made when the number and salaries of territorial officers are fixed. It should be borne in mind that for some time comparatively large sums will be required by counties to enable them to build court houses and other county buildings, and that such proper objects of taxation should be left to be assessed by them, or part given them from the amount raised by the territory as will enable them to carry out the objects of these organizations. The only restrictions in the organic law upon the power to tax, or the objects of taxation, are that "the property of non-residents shall not be taxed higher than the property of residents, and that no tax shall be imposed on the property of the United States." We need not at present avail ourselves of this latitude in taxation, for a revenue nearly if not quite sufficient can be raised by a system of licenses and a poll tax. These taxes will bear less heavily than others, and can be collected with less expense.

The proceeds of all dividend paying mines can be taxed without obstructing the development of the country, and a license and tax should be required from foreign miners. I also suggest that hereafter the discoverers of mines which are taken up and recorded be required to locate next to the discovery claim one claim which shall be the property of the territory. I further recommend that a large proportion of the money, realized from taxing the mining interest, be set apart as a fund for raising, arming and supporting in the field companies of citizens, organized as rangers, to operate against the hostile Apaches, until the last one is subdued. It will be necessary to adopt a militia system, by which an organization can be perfected as our population increases. Companies of rangers are the only force that can at present be made effective, and an Adjutant General, who may also be Acting Quartermaster General, is the only officer requiring to be compensated.

The legislature and the Governor are also required to locate the permanent capitol of the territory. Your superior knowledge of the territory and of the wishes and interests of the people will enable you to determine that question satisfactorily. I can only urge that no considerations of local advantage, or sectional feeling and jealousy, should be suffered to control a question of so great public importance, but that a point should be selected which will become the centre of population, and aid the development of the Territory.

The claims and advantages of the different sites should be carefully weighed, and a location be made that will not require an immediate change. The advantages to the territory of a permanent settlement of this question are too obvious to require enumeration.

One of the most interesting and important subjects that will engage your attention is the establishment of a system of common schools.

Self-government and universal education are inseparable. The one can be exercised only as the other is enjoyed. The common school, the high school, and the university, should all be established, and are worthy of your fostering care. The first duty of the legislators of a free state is to make, as far as lies in their power, education as free to all its citizens as the air they breathe. A system of common schools is the grand foundation upon which the whole superstructure should rest. If that be broad and firm, a symmetrical and elegant temple of learning will be erected. I earnestly recommend that a proportion of the funds raised by taxation be appropriated for these purposes, and that a beginning, though small, be made.

The act organizing the territory of New Mexico provides, that when the lands in this territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township are reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be created out of the same. It does not seem to me that any portion of this donation can be made immediately available.

It is for you to determine what legislation, if any, the interests of Arizona require under this donation, or what further legislation in that direction should be asked of Congress.

The act of July 2, 1862, the operation of which has been extended by an act of the present Congress, has provided for the establishment of an agricultural college in every state or territory that shall avail itself of its provisions, and comply with its conditions. I recommend that you take the necessary steps to enable the territory to accept this donation. The only school which I have visited in the territory, though doubtless there are others, is one at the old Mission church of San Xavier. If any such institution be recognized by an endowment I suggest that some aid be given to this school. A small donation at this time would materially assist an ancient and most laudable charity of the church to which a large proportion of our people belong, and would encourage it in preserving one of the most beautiful remnants of art on the continent.

The most extensive and important interest of this territory is the mineral wealth. Its development will be greatly promoted by well considered and liberal legislation. The miners may with propriety be permitted to adopt regulations for the placer mines, which are soon exhausted, under such restrictions as will prevent a monopoly of claims. The interests of those engaged in silver, gold, and other mines worked by machinery, as well as the advancement and prosperity of the territory, require the adoption of a mining code, and, if practicable, one that has received judicial interpretation. Moreover, if the mining states and territories regulate the possessory rights to such mines, as they may legally do, by laws which are equitable, adapted to their peculiar situation, and calculated to secure the development of the mineral, one argument for the interference of the federal government is removed. The people of these communities have regarded with the greatest solicitude the propositions which have recently been made for the taxation, sale or exclusive possession by government of the mineral lands. That abuses now exist which should be remedied by legislation is very apparent. Mining districts in this territory are created and divided by the votes of a few persons, records are imperfectly kept, and the regulations of adjacent districts differ in material points, without any sufficient reason for the variance. This state of things must produce, in this as it has in other countries, under similar conditions, protracted and ruinous litigation whenever the claims become valuable. Uniformity in the ordinances, and a legal authentication of titles, should as far as practicable be secured.

The scheme of taxation and seignorage proposed in Congress would effectually drive the people from the mineral lands, without expressly providing for their exclusion. The whole country will be vastly more benefitted by encouraging by its policy the discovery and constant working of the mines, thereby permanently increasing wealth and the sources of revenue, than it would be by any sum which might be realized by the present or prospective sale of the mineral lands. Moreover such sale would result in monopoly—it would put this important interest beyond the control of Congress, and would drive from the frontier the prospector and the pioneer—the vanguard of that army of occupation which has built up an empire on the shores of the Pacific. The mining law of Mexico gives to the discoverer of a mine the right to open and work it, and makes his title absolute and perfect so long as it is worked. If this policy be adopted I believe that the discovery and development of our mineral wealth will be assisted and secured. It gives full scope to the enterprise and energy of our people, and would have fully vindicated its wisdom in Mexico, but for the distracted condition of that unhappy country. The

ordinance is liberal, equitable and just. I recommend that you make it the basis of a code, confirming to the proper extent the rights previously acquired under the laws of mining districts, making their records evidence in the courts. A majority of you are miners, and have the experience and practical knowledge which will enable you to make such modifications in the details as our laws and condition require. I suggest that you make the decision of mining rights as summary as is consistent with the administration of justice, and in the nature of proceedings in equity. It is for the interest of litigants and joint owners that there should be a speedy determination of conflicting claims, and the territory cannot afford that the development of its resources should be suspended while the time and money of its citizens are consumed in unprofitable litigation. And in order to furnish information to our citizens of what property is claimed and has been conveyed, all conveyances of mines or real estate, made since the country was acquired by the United States, and all grants should be recorded within a specified time, in the county in which the subject of the grant is situated. I advise that such record be required to be made within one year from the time fixed in your law, and that it shall operate as notice, and the conveyance, though defective in form, be received in the courts as evidence of title and transfer.

Persons during the past few years have acquired mining claims and possessory rights to real estate, which if continued and improved should be recognized. Many have abandoned their interests on account of Indian difficulties, the rebellion, or because they believe them to be valueless. Such persons may never enforce their claims unless the property hereafter should prove valuable, and may then attempt to oust the possessor, who by expending time and money has given the property its value, by pleading their inability, in the disturbed state of the country, to improve it. I recommend that a statute of limitations be passed, allowing one year for persons not in possession of property to an bring action to recover such property. You may also deem it advisable at this time, before rights become vested, to adopt a permanent policy as to the use of water for agricultural as well as mining purposes. Where water is scarce and valuable it is important to provide against monopolies, and that it should be used as much as possible for the common good.

For many years, even before it was acquired by the United States, attention was directed to this territory as the most feasible route for a railroad to the Pacific. The severity of the seasons, and the great obstacles presented by mountain chains seriously impede the progress of the road now building, and must greatly enhance the cost of constructing and running it. These difficulties have forcibly suggested the practicability of a route through New Mexico and Arizona. It has indeed all the advantages to make it the highway between the oceans. In 1853-4 explorations to determine this question were made by persons who had no previous acquaintance with the country, but who in spite of all the obstacles they encountered reported that practicable routes existed. Recent explorations have removed all objections to this line by discovering easier grades in shorter distances. Both north and south of the 34th parallel, routes have already been found over a country nearly level, and teeming with mineral wealth, where a snow storm that would impede travel has never been known, and having abundant timber, wood and water for all railroad purposes.

When such an enterprise has brought capital to the mines of Arizona, the transportation of its ores and products alone will yield a large revenue to the projectors.

The legislative assembly of New Mexico has taken the initiatory steps by passing an act incorporating the Kansas, New Mexico and Arizona railroad company, with ample powers and liberal provisions. I suggest reciprocal action on our part to advance the progress of this beneficent undertaking.

Since the discontinuance of the overland mail, in 1861, and until the action of the present Congress, no mail routes have been established in any part of this territory. We have been indebted to the courtesy of the military authorities for the means of communication between the principal points in the territory, and the mail routes in New Mexico and California. The attention of the Post Office Department has been

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